

Application No. 10/613,741

REMARKS

Claims 1-29 are now pending in the application, with claim 1 being the only independent claim. Reconsideration and further examination are respectfully requested.

In the Office Action, claims 1-4, 6, 11, 12, 19-21 and 24 were rejected under 35 USC § 102(e) over U.S. Patent Application Publication Number 2004/0163190 (Loughran); claims 7, 8, 10, 22 and 23 were rejected under § 103(a) over Loughran; claim 5 was rejected under § 103(a) over Loughran in view of U.S. Patent 4,356,643 (Kester); claim 9 was rejected under § 103(a) over Loughran in view of U.S. Patent 4,779,360 (Bible); and claims 13-18 were rejected under § 103(a) over Loughran. Withdrawal of these rejections is respectfully requested for the following reasons.

As amended above, independent claim 1 is directed to a shoe in which the bottom surface, which is adjacent to the ground in normal use, has a plurality of indentations, with lower extending portions between the indentations. A sole forms at least a portion of the bottom surface, and an upper portion extends above the sole. A plurality of small particles is bonded to at least some of the lower extending portions, but at least a portion of each of the plurality of indentations is not coated with such small particles.

The foregoing combination of features is not disclosed by the applied art. In particular, the applied art does not disclose at least the feature of: a plurality of indentations and lower extending portions between them, with a plurality of small particles bonded to at least some of the lower extending portions, but with at least a portion of each of the plurality of indentations not being coated with such small particles.

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Prior to the current amendment, independent claim 1 recited the use of "at least some indentations". The amendment above merely clarifies that a plurality of such indentations is used. No change in scope was intended, nor is any believed to have been effected.

In both the previous and current versions of independent claim 1, a plurality of such indentations is utilized. In contrast, however, in Loughran there is only a single extended area (between the heel and the ball of Loughran's shoe) that does not appear to be covered by Loughran's particles. In fact, all of the small indentations on the bottom of Loughran's shoe appeared to be covered by his particles. See, e.g., Figures 2B and 2C. Thus, Loughran clearly does not disclose the above-referenced feature of the invention.

Finally, the present inventor conceived this invention and then diligently pursued the filing of Provisional Patent Application Serial No. 60/460,322 (the '322 application), to which the present application claims priority, prior to Loughran's filing date of February 20, 2003. These facts are clearly shown in the inventor's Declaration Under 37 CFR 1.131, which is being filed concurrently herewith. Specifically, the attached Declaration shows that a substantively identical draft of the '322 application had been prepared and received by the inventor five days prior to Loughran's filing date. Moreover, independent claim 1 is fully supported by the '322 application, e.g., at page 9 lines 6-30 and in Figure 4. Accordingly, withdrawal of Loughran as a prior-art reference against independent claim 1 is respectfully requested.

For the foregoing reasons, independent claim 1 could not have been anticipated by Loughran.

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The other claims in this application depend from independent claim 1, discussed above, and are therefore believed to be allowable for at least the same reasons. Because each dependent claim also defines an additional aspect of the invention, however, the individual consideration/reconsideration of each on its own merits is respectfully requested.

In this regard, newly added claim 25 depends from independent claim 1, and recites the further feature that the bottom surface has at least five of such indentations. Newly added claim 26 depends from independent claim 1, and recites the further feature that at least some of the indentations are very narrow. Newly added claim 27 depends from independent claim 1, and recites the further feature that at least one of the indentations is approximately 1-2 millimeters in width. Newly added claim 28 depends from independent claim 1, and recites the further feature that at least some of the indentations are closely spaced. Newly added claim 29 depends from independent claim 1, and recites the further feature that at least two of said indentations are separated from each other by no more than approximately 2 millimeters. These features of the invention are supported, e.g., at page 12 lines 27 to page 13 line 2 of the Specification, and are not disclosed or suggested by the applied art.

In view of the foregoing remarks, the entire application is believed to be in condition for allowance, and an indication to that effect is respectfully requested.

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Respectfully submitted,

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